HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.19748 OF 2006

Between:

Duppala Anjaneya Murthy & another

… Petitioners

And

A.P. Pollution Control Board,
Rep. By its Member-Secretary,
Hyderabad & others

… Respondents

:: O R D E R ::

Counsel for the petitioners : Ms. Vasudha Nagaraj
for Shri K. Bala Gopal

Counsel for respondent Nos.1 and 2: Shri S.V. Bhatt

February 26, 2007

Per G.S. Singhvi, CJ

In this petition filed in public interest, Shri Duppala Anjaneya Murthy and Shri Pindi Venkata Rao have prayed for issue of a mandamus to the respondents to take steps to curb the pollution caused by cashew processing units located in Palasa- Kasibugga Municipality and neighbouring villages.

On 06.02.2007, the Court had, after going through affidavit dated 05.02.2007 filed by Shri Rajshwar Tiwari, Member Secretary, Andhra Pradesh Pollution Control Board and documents annexed therewith, passed the following order:

> " We have carefully gone through affidavit dated 05.02.2007 of Shri Rajeshwar Tiwari and documents annexed with it and are constrained to remark that except performing the ceremony of issuing annual notices to those engaged in the manufacture of cashew, the officers

of the Andhra Pradesh Pollution Control Board (for short, 'the Board') have miserably failed to perform their duty in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981, as amended from time to time. The enormity of the pollution caused due to cashew industries and serious adverse impact on the life of the people living within the municipal area of Palasa Kasibugga can be gauged from the averments contained in the affidavit of Shri Rajeshwar Tiwari and four photographs annexed therewith.

Prima facie, we are of the view that by failing to take action in accordance with law against the polluting industries, the officers of the Board have made themselves liable to be prosecuted.

However, before passing any order for institution of complaints against the officers who are culpably negligent in performing their statutory duties, which would necessarily include the Secretary of the Board, we deem it proper to adjourn the case for two weeks to enable them to take steps for implementation of the provisions of law.

List the case on 26.02.2007."

Shri S.V. Bhatt, learned counsel for the Board invited our attention to report dated 20.02.2007 sent by Joint Chief Environmental Engineer (FAC), Visakhapatnam to Member Secretary, Andhra Pradesh Pollution Control Board and submitted that the Board has issued orders under Section 31(A) of Air (Prevention and Control of Pollution) Act, 1981, as amended from time to time. Shri Bhatt also produced seven photographs to show that after closure of the polluting units, there has been considerable improvement in the environment of the town where the units are situated.

The report and the photographs produced by Shri Bhatt are taken on record.

We have gone through the report of the Joint Chief Environmental Engineer (FAC) and are satisfied with the action taken by the Board.

In the result, the writ petition is disposed of as infructuous.

At this stage, Shri D.V. Sitharama Murthy, Advocate made a request that the cashew units which have been closed by the Board may be given liberty to challenge the orders of closure.

In regard to the request made by Shri D.V. Sitharama Murthy, it is sufficient to observe that the closure order passed by the Board can always be challenged by the affecting person by availing appropriate legal remedy including the one by filing writ petition under Article 226 of the Constitution of India. We may, however, observe that it will be in the interest of the concerned units to take steps for modernisation and, if necessary, shift their place of operation so that the people living in the area do not suffer on account of pollution.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

February 26, 2007
ksld